

AMENDED IN ASSEMBLY JUNE 10, 2010

AMENDED IN SENATE APRIL 27, 2010

AMENDED IN SENATE MARCH 9, 2010

**SENATE BILL**

**No. 961**

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**Introduced by Senator Wright**  
**(Coauthors: Senators Cox, Negrete McLeod, and Strickland)**  
(Coauthor: Assembly Member Hall)

February 5, 2010

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An act to add *and repeal* Section 1367.655 ~~to~~ of the Health and Safety Code, and to add *and repeal* Section 10123.205 ~~to~~ of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 961, as amended, Wright. Health care coverage: cancer treatment.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires health care service plan contracts and health insurance policies to provide coverage for all generally medically accepted cancer screening tests and requires those plans and policies to also provide coverage for the treatment of breast cancer. Existing law imposes various requirements on contracts and policies that cover prescription drug benefits.

This bill, *until January 1, 2015*, would ~~prohibit~~ *require* health care service plan contracts and health insurance policies that provide coverage for ~~orally administered cancer medications from charging a~~

~~copayment for the medications in excess of 200% of the lowest copayment required by the plan or policy for brand name medications in the formulary of the plan or policy, as specified~~ *cancer chemotherapy treatment to provide coverage for a prescribed, orally administered, nongeneric cancer medication, as specified. The bill would require a health care service plan or health insurer to review the percentage cost share, as defined, for oral nongeneric cancer medications and intravenous or injected nongeneric cancer medications and to apply the lower of the 2 as the cost-sharing provision for oral nongeneric cancer medications. The bill would specify that its provisions do not apply to health care service plan contracts or health insurance policies that do not provide coverage for prescription drugs. The bill would specify that its provisions do not apply to a health care benefit plan, contract, or health insurance policy with the Board of Administration of the Public Employees' Retirement System.*

Because a willful violation of the bill's requirements relative to health care service plans would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1367.655 is added to the Health and  
2     Safety Code, to read:  
3     1367.655. (a) A health care service plan contract issued,  
4     amended, or renewed on or after January 1, 2011, that provides  
5     coverage for cancer chemotherapy treatment shall provide  
6     coverage for a prescribed, orally administered, nongeneric cancer  
7     medication used to kill or slow the growth of cancerous cells and  
8     shall review the percentage cost share for oral nongeneric cancer  
9     medications and intravenous or injected nongeneric cancer  
10    medications and apply the lower of the two as the cost-sharing  
11    provision for oral nongeneric cancer medications. A health care  
12    service plan contract shall not provide for an increase in enrollee

1 *cost sharing for nongeneric cancer medications to any greater*  
2 *extent than the contract provides for an increase in enrollee cost*  
3 *sharing for other nongeneric covered medications.*

4 (b) *For purposes of this section, “cost share” means copayment,*  
5 *coinsurance, or deductible provisions applicable to coverage for*  
6 *oral, intravenous, or injected nongeneric cancer medications.*

7 (c) *Nothing in this section shall be construed to require a health*  
8 *care service plan contract to provide coverage for any additional*  
9 *medication not otherwise required by law.*

10 (d) *Nothing in this section shall prohibit a health care service*  
11 *plan from removing a prescription drug from its formulary of*  
12 *covered prescription drugs.*

13 (e) *This section shall not apply to a health care service plan*  
14 *contract that does not provide coverage for prescription drugs.*

15 (f) *This section shall not apply to a health care benefit plan or*  
16 *contract entered into with the Board of Administration of the Public*  
17 *Employees’ Retirement System pursuant to the Public Employees’*  
18 *Medical and Hospital Care Act (Part 5 (commencing with Section*  
19 *22750) of Division 5 of Title 2 of the Government Code).*

20 (g) *This section shall remain in effect only until January 1, 2015,*  
21 *and as of that date is repealed, unless a later enacted statute, that*  
22 *is enacted before January 1, 2015, deletes or extends that date.*

23 SEC. 2. *Section 10123.205 is added to the Insurance Code, to*  
24 *read:*

25 10123.205. (a) *A health insurance policy issued, amended, or*  
26 *renewed on or after January 1, 2011, that provides coverage for*  
27 *cancer chemotherapy treatment shall provide coverage for a*  
28 *prescribed, orally administered, nongeneric cancer medication*  
29 *used to kill or slow the growth of cancerous cells and shall review*  
30 *the percentage cost share for oral nongeneric cancer medications*  
31 *and intravenous or injected nongeneric cancer medications and*  
32 *apply the lower of the two as the cost-sharing provision for oral*  
33 *nongeneric cancer medications. A health insurance policy shall*  
34 *not provide for an increase in insured cost sharing for nongeneric*  
35 *cancer medications to any greater extent than the policy provides*  
36 *for an increase in an insured’s cost sharing for other nongeneric*  
37 *covered medications.*

38 (b) *For purposes of this section, “cost share” means copayment,*  
39 *coinsurance, or deductible provisions applicable to coverage for*  
40 *oral, intravenous, or injected nongeneric cancer medications.*

1 (c) Nothing in this section shall be construed to require a health  
2 insurance policy to provide coverage for any additional medication  
3 not otherwise required by law.

4 (d) Nothing in this section shall prohibit a health insurer from  
5 removing a prescription drug from its formulary of covered  
6 prescription drugs.

7 (e) This section shall not apply to a health insurance policy that  
8 does not provide coverage for prescription drugs.

9 (f) This section shall not apply to a policy of health insurance  
10 purchased by the Board of Administration of the Public Employees'  
11 Retirement System pursuant to the Public Employees' Medical  
12 and Hospital Care Act (Part 5 (commencing with Section 22750)  
13 of Division 5 of Title 2 of the Government Code).

14 (g) This section shall remain in effect only until January 1, 2015,  
15 and as of that date is repealed, unless a later enacted statute, that  
16 is enacted before January 1, 2015, deletes or extends that date.

17 SEC. 3. No reimbursement is required by this act pursuant to  
18 Section 6 of Article XIII B of the California Constitution because  
19 the only costs that may be incurred by a local agency or school  
20 district will be incurred because this act creates a new crime or  
21 infraction, eliminates a crime or infraction, or changes the penalty  
22 for a crime or infraction, within the meaning of Section 17556 of  
23 the Government Code, or changes the definition of a crime within  
24 the meaning of Section 6 of Article XIII B of the California  
25 Constitution.

26 ~~SECTION 1. The Legislature finds and declares all of the~~  
27 ~~following:~~

28 ~~(a) There are 10 million Americans currently living with cancer.~~

29 ~~(b) Approximately 1.5 million new cases of cancer will be~~  
30 ~~diagnosed in the United States in 2010.~~

31 ~~(c) In California, 27,725 men and 26,735 women are expected~~  
32 ~~to die from cancer this year.~~

33 ~~(d) Nearly one out of every two Californians born today will~~  
34 ~~develop cancer at some point in their lives.~~

35 ~~(e) It is likely that one in five Californians will die of cancer.~~

36 ~~(f) It is the intent of the Legislature that a health plan or insurer~~  
37 ~~that includes on its formulary, or authorizes on the basis of medical~~  
38 ~~necessity, oral medications used to treat cancer shall not require~~  
39 ~~copayments or other charges for those medications at a level that~~  
40 ~~effectively makes the medication inaccessible to a patient.~~

1     ~~SEC. 2. Section 1367.655 is added to the Health and Safety~~  
2     ~~Code, to read:~~

3     ~~1367.655. (a) A health care service plan contract issued,~~  
4     ~~amended, or renewed on or after January 1, 2011, that provides~~  
5     ~~coverage for orally administered cancer medication used to kill or~~  
6     ~~slow the growth of cancerous cells shall not charge a copayment~~  
7     ~~for these medications in excess of 200 percent of the lowest~~  
8     ~~copayment required by the plan for brand name medications in the~~  
9     ~~plan's formulary.~~

10    ~~(b) Nothing in this section shall prohibit a health care service~~  
11    ~~plan contract from requiring prior approval or authorization for~~  
12    ~~the use of any medication described in subdivision (a). However,~~  
13    ~~if the health care service plan contract authorizes the dispensing~~  
14    ~~of the medication for any reason, the copayment provisions of~~  
15    ~~subdivision (a) shall apply.~~

16    ~~(c) Nothing in this section shall be construed to require a health~~  
17    ~~care service plan contract to provide coverage for any additional~~  
18    ~~medication not otherwise required by law. Nothing in this section~~  
19    ~~shall prohibit a health care service plan from providing differential~~  
20    ~~cost-sharing between generic and nongeneric orally administered~~  
21    ~~cancer medications.~~

22    ~~(d) This section shall not apply to a health care benefit plan or~~  
23    ~~contract entered into with the Board of Administration of the Public~~  
24    ~~Employees' Retirement System pursuant to the Public Employees'~~  
25    ~~Medical and Hospital Care Act (Part 5 (commencing with Section~~  
26    ~~22750) of Division 5 of Title 2 of the Government Code).~~

27    ~~(e) For purposes of this section, "copayment" means a flat dollar~~  
28    ~~amount an enrollee pays, out-of-pocket, at the time of receiving a~~  
29    ~~health care service or when paying for a prescription, after any~~  
30    ~~applicable deductible. The term shall not be construed to include~~  
31    ~~any other forms of cost-sharing.~~

32    ~~SEC. 3. Section 10123.205 is added to the Insurance Code, to~~  
33    ~~read:~~

34    ~~10123.205. (a) A health insurance policy issued, amended, or~~  
35    ~~renewed on or after January 1, 2011, that provides coverage for~~  
36    ~~orally administered cancer medication used to kill or slow the~~  
37    ~~growth of cancerous cells shall not charge a copayment for these~~  
38    ~~medications in excess of 200 percent of the lowest copayment~~  
39    ~~required by the policy for brand name medications in the policy's~~  
40    ~~formulary.~~

1     ~~(b) Nothing in this section shall prohibit a health insurance~~  
2     ~~policy from requiring prior approval or authorization for the use~~  
3     ~~of any medication described in subdivision (a). However, if the~~  
4     ~~policy authorizes the dispensing of the medication for any reason,~~  
5     ~~the copayment provisions of subdivision (a) shall apply.~~

6     ~~(c) Nothing in this section shall be construed to require a health~~  
7     ~~insurance policy to provide coverage for any additional medication~~  
8     ~~not otherwise required by law. Nothing in this section shall prohibit~~  
9     ~~a health insurer from providing differential cost-sharing between~~  
10    ~~generic and nongeneric orally administered cancer medications.~~

11    ~~(d) This section shall not apply to a policy of health insurance~~  
12    ~~purchased by the Board of Administration of the Public Employees'~~  
13    ~~Retirement System pursuant to the Public Employees' Medical~~  
14    ~~and Hospital Care Act (Part 5 (commencing with Section 22750)~~  
15    ~~of Division 5 of Title 2 of the Government Code).~~

16    ~~(e) For purposes of this section, "copayment" means a flat dollar~~  
17    ~~amount an insured pays, out-of-pocket, at the time of receiving a~~  
18    ~~health care service or when paying for a prescription, after any~~  
19    ~~applicable deductible. The term shall not be construed to include~~  
20    ~~any other forms of cost-sharing.~~

21    ~~SEC. 4. No reimbursement is required by this act pursuant to~~  
22    ~~Section 6 of Article XIII B of the California Constitution because~~  
23    ~~the only costs that may be incurred by a local agency or school~~  
24    ~~district will be incurred because this act creates a new crime or~~  
25    ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
26    ~~for a crime or infraction, within the meaning of Section 17556 of~~  
27    ~~the Government Code, or changes the definition of a crime within~~  
28    ~~the meaning of Section 6 of Article XIII B of the California~~  
29    ~~Constitution.~~